

Judith B. Memblatt, Esq.
98-51 65th Avenue #2A
Rego Park, NY 11374
646-239-2635

BY HAND

April 21, 2005

Judge Raymond J. Dearie
United States District Court
225 Cadman Plaza East
Brooklyn, New York 11201

Re: Memblatt v. Rios, et al.
Case No. 05 CV 1021 (RJD) (LB)

Dear Judge Dearie:

I am in receipt of a letter to the court, dated April 19, 2005, from Assistant Attorney General Constantine A. Speres regarding the instant action. In his letter, he states that his office represents six defendants herein and, "anticipates representing the Honorable Jonathan Lippman and Lauren DeSole once they are served and have requested representation."

Defendants Lippman and DeSole both were served with the summons and complaint, the order of U.S. Magistrate Judge Lois Bloom, dated March 4, 2005, and the individual practices of Magistrate Judge Bloom, at the offices of the State of New York, Unified Court System, 25 Beaver Street, New York, New York 10004 on April 5, 2005. Service was accepted by Shawn Kirby, Assistant Deputy Counsel, NYS Office of Court Administration ("OCA"). When she accepted service, Ms. Kirby stamped the first page of a copy of the order of Magistrate Judge Bloom and also stamped the back of a copy of the summons. Additional copies were mailed to defendants Lippman and DeSole at the same address on April 8, 2005. Copies of the papers that Ms. Kirby stamped are annexed hereto, together with stamped copies of the affidavits of service regarding these two defendants, which were filed on April 8, 2005.

As noted in my letter to the court dated March 29, 2005, the Attorney General's office initially accepted service of the summons and complaint herein on March 3, 2005 for the same eight defendants referred to in Mr. Speres' letter. More than twenty days later, by a letter dated March 25, 2005, Mr. Speres first asserted that the Attorney General was not authorized to accept service of process on those defendants. Service had been made upon the Attorney General's office in the first instance inasmuch as, based upon information and belief, it appears that said office has consented to such service of process in the past, due to the obligations for representing

Judges and NYS employees that are imposed upon the Attorney General's office pursuant to Article 17 of the NYS Public Officers Law.

In the instant action, the Attorney General's office obviously was aware of the great likelihood that it would represent the eight defendants referred to in Mr. Speres' letter. After initially accepting service, that office waited three weeks and then rejected service. Its rejection of service predictably led to service being made upon those defendants anew. Subsequently, six of those defendants returned the same papers to the Attorney General's office. In light of the gamesmanship exhibited by these defendants, in my letter of March 28, 2005, I informed Mr. Speres in advance that I would not consent to any extensions of time for the State defendants to respond to the complaint, in the event that his office ultimately represented them. A copy of that letter previously was provided to the court.

In his recent letter, Mr. Speres seeks a ninety-day extension of time to respond to the very same papers that his office first received on March 3, 2005. His office had ample time to make additional copies before rejecting those papers three weeks later. Further, defendant Heidi Higgins, who is represented by that office, clearly had prior access to the summons and complaint. She is the daughter of defendant Karen Koslowitz, who was personally served with the summons and complaint on March 8, 2005. Defendant Koslowitz has close relationships with the other State defendants herein. Defendant Higgins is employed by OCA. Accordingly, it is extremely likely that all of those defendants had access to copies of the summons and complaint almost immediately after defendant Koslowitz was served, regardless of whether the Attorney General's office also supplied them with copies. If they were not engaging in gamesmanship, they would have requested representation by the Attorney General's office long before Mr. Speres rejected service of process upon the basis that his office had no authority to accept the summons and complaint upon their behalf. As shown in Exhibit J to the complaint herein, in a memorandum dated November 6, 2002, defendant Lippman's office reminded the State Judges and OCA's non-judicial employees that, if they were served with process and desired representation by the Attorney General's office, they were required to provide the Attorney General's office with copies of the summons and complaint within five days after they were served. It also is worthy of note that the Attorney General's office already represents defendant D'Angelis in *Neilson v. D'Angelis et al.* (E.D.N.Y. CV 00-6106 [CPS]). In May 2003, a jury returned a verdict in favor of the plaintiff therein regarding his claim that D'Angelis and the major in charge of court officers at the Kew Gardens courthouse both had violated his rights to equal protection of the laws. Defendant D'Angelis' appeal is pending before the Second Circuit.

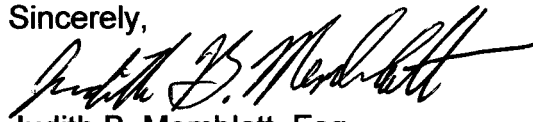
I have been advised by John E. Quinn, Esq., Renfroe and Quinn, 118-35 Queens Boulevard, 14th Floor, Forest Hills, NY 11375, that his office represents defendants Manton, Sweeney and Reich herein. When he first contacted me, Mr. Quinn told me that he was seeking an extension of time to respond to the complaint. On April 2, 2005, I received a copy of the order entered herein on March 31, 2005, which extended

defendant Koslowitz's time to respond until May 31, 2005. I immediately furnished Mr. Quinn with a copy of that order via a fax transmission, and informed him that I would consent to an extension until May 31, 2005 with respect to his clients. In a telephone conversation on April 4, 2005, he accepted my offer. By a letter of the same date, he requested that I sign a stipulation that his office had prepared reflecting our agreement. I executed that stipulation and returned it to him, together with a letter requesting that he furnish me with a copy of the fully executed stipulation after he signed it. I have not yet received a copy of the stipulation bearing his signature. Annexed hereto is a copy of the aforementioned fax transmission, together with copies of Mr. Quinn's letter of April 4, 2005, my letter of April 6, 2005 and the stipulation that bears my signature.

Based upon the foregoing, it is respectfully submitted that the State defendants' application for an extension of time to respond to the complaint should be denied in its entirety. It is further respectfully submitted that, if the court is inclined to grant any extension of time to these defendants, the adjournment should be until no later than May 31, 2005. I have been unemployed for a prolonged period of time. The complaint herein alleges that my unemployment is due to the wrongful and retaliatory conduct of the defendants. The ninety-day extension of time sought by them obviously is unwarranted. Such an adjournment would unnecessarily delay this matter and, in so doing, intensify my current state of economic hardship.

Thank you for your consideration.

Sincerely,



Judith B. Memblatt, Esq.
Plaintiff *Pro Se*

Enc.

c.c. Honorable Lois Bloom
United States Magistrate Judge

Constantine A. Speres
Assistant Attorney General

Madaleine S. Egelfeld, Esq.

John E. Quinn, Esq.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

PM
TIME AM.

Recd

-----X
JUDITH B. MEMBLATT,

Plaintiff,

ORDER
05 CV 1021 (SLT)(LB)

- against -

JAMIE A. RIOS, Associate Justice, Appellate
Term, Supreme Court, State of New York, 2nd
and 11th Judicial Districts; STEVEN W.
FISCHER, Associate Justice, Appellate
Division, Supreme Court, State of New York,
2nd Department; JONATHAN LIPPMAN,
Chief Administrative Judge of the Courts of
the State of New York; LAUREN DeSOLE,
Director of Human Resources, New York State
Unified Court System, Office of Court
Administration, ANTHONY D'ANGELIS,
Chief Clerk, Supreme Court, State of New York,
Queens County; ROBERT W. GARDNER,
Major of Court Officers, Supreme Court,
State of New York; SANDRA NEWSOME,
Secretary to Judge, Supreme Court, State of
New York; HEIDI HIGGINS, Secretary to Judge,
Supreme Court, State of New York; KAREN
KOSLOWITZ, Deputy Borough President,
County of Queens, City of New York; THOMAS
J. MANTON, GERARD J. SWEENEY and
MICHAEL H. REICH.

Defendants,

-----X
BLOOM, United States Magistrate Judge:

The Honorable Sandra L. Townes has assigned this case to the undersigned for all
pretrial purposes. An extra (courtesy) copy of all papers submitted to the Court should be sent to
the undersigned at the United States Courthouse, 225 Cadman Plaza East, Room 366, Brooklyn,
New York 11201. Enclosed is a copy of the "Individual Practices of Magistrate Judge Lois
Bloom." Plaintiff (and defendants) are required to follow them. Plaintiff is to provide a copy of
this Order (and the enclosed rules) to defendants along with the summons and complaint.

nm

11

05 APR -5 PM 17

RECEIVED
CLERK OF COURT
OFFICE OF THE CLERK
OF THE COURT
OF THE EASTERN DISTRICT
OF NEW YORK

RECEIVED
COUNSEL'S OFFICE
OFFICE OF THE CLERK

'05 APR -5 P12:17

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

JUDITH B. MEMBLATT,

Plaintiff,

-against-

JAIME A. RIOS, et al.

Defendants.

Affidavit of Service
05 CV 1021 (RJD) (LB)

Pro Se

SHIRLEY MEMBLATT, BEING DULY SWORN, DEPOSES AND SAYS THAT DEPONENT IS NOT A PARTY TO THIS ACTION, IS OVER THE AGE OF EIGHTEEN YEARS AND RESIDES IN THE STATE OF NEW YORK, and further deposes and says that on April 5, 2005 at 12:17 P.M. at the State of New York, Unified Court System, 25 Beaver Street, New York, New York 10004 deponent served the within SUMMONS AND COMPLAINT, together with the within ORDER OF UNITED STATES MAGISTRATE JUDGE LOIS BLOOM, DATED MARCH 4, 2005, AND INDIVIDUAL PRACTICES OF MAGISTRATE JUDGE LOIS BLOOM, upon JONATHAN LIPPMAN therein named by delivering thereat a true copy of each to SHAWN KIRBY, who is a person of suitable age and discretion and is employed thereat as an Assistant Deputy Counsel. Said premises is this defendant's actual place of business.

Deponent additionally states that she describes SHAWN KIRBY, who was actually served, as follows:

Sex: Female

Skin Color: White

Hair Color: Auburn


Age (Approx.): 35

Height (Approx.): 5'4

Weight (Approx.): 103

Deponent further states that deponent enclosed a true copy of same in a post-paid wrapper properly addressed to the defendant at the defendant's actual place of business at the State of New York, Unified Court System, 25 Beaver Street, New York, New York 10004 and deposited said wrapper in a post office or official depository under the exclusive care and custody of the United States Postal Service within New York State on April 8, 2005 by REGULAR FIRST CLASS MAIL in an envelope bearing the legend "PERSONAL AND CONFIDENTIAL", with no return address.

The defendant is not in the military service of the State of New York or the United States as that term is defined in the statutes of the State of New York or the Federal Soldiers and Sailors Civil Relief Act,


SHIRLEY MEMBLATT
98-51 65th Avenue #2A
Rego Park, NY 11374

Sworn to before me this
4th day of April 2005


Notary Public

JUDITH B. MEMBLATT
Notary Public, State of New York
No. 0896003067
Qualified in Queens County
Commission Expires 07/28/2006

APR 08 2005

PRO SE OFFICE

Defendants.

SHIRLEY MEMBLATT, BEING DULY SWORN, DEPOSES AND SAYS THAT DEPONENT IS NOT A PARTY TO THIS ACTION, IS OVER THE AGE OF EIGHTEEN YEARS AND RESIDES IN THE STATE OF NEW YORK, and further deposes and says that on April 5, 2005 at 12:17 P.M. at the State of New York, Unified Court System, 25 Beaver Street, New York, New York 10004 deponent served the within SUMMONS AND COMPLAINT, together with the within ORDER OF UNITED STATES MAGISTRATE JUDGE LOIS BLOOM, DATED MARCH 4, 2005, AND INDIVIDUAL PRACTICES OF MAGISTRATE JUDGE LOIS BLOOM, upon LAUREN DeSOLE therein named by delivering thereat a true copy of each to SHAWN KIRBY, who is a person of suitable age and discretion and is employed thereat as an Assistant Deputy Counsel. Said premises is this defendant's actual place of business.

Deponent additionally states that she describes SHAWN KIRBY who was actually served, as follows:

Sex: Female **Skin Color:** White **Hair Color:** Auburn
Age (Approx.): 35 **Height (Approx.):** 5'4 **Weight (Approx.):** 103

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The defendant is not in the military service of the State of New York or the United States as that term is defined in the statutes of the State of New York or the Federal Soldiers and Sailors Civil Relief Act.

Shirley Memblatt
SHIRLEY MEMBLATT
98-51 65th Avenue #2A
Rego Park, NY 11374

Sworn to before me this 5th day of April 2005

Notary Public

JUDITH S. MEMBLATT
 Station Point, State of New York
 No. 0088000057
 Qualified in Queens County
 Commission Expires 07/29/2006

RECEIVED
APR 08 2005
PRO SE OFFICE

Fax

To: John Quinn, Esq.
Renfro & Quinn
FAX No.: (718) 263-9465
From: Judith B. Memblatt, Esq.
Date: April 2, 2005
Re: Memblatt v. Rios, et al.
Index No.: 05 CV 1021 (RJD) (LB)
Pages: 2 (including this page)

Comments: I have just received a copy of the order of Judge Dearie, which extends defendant Koslowitz's time to respond until May 31, 2005. A copy of this order, which was entered on March 31, 2005, is herewith transmitted.

In light of Judge Dearie's ruling, I will consent to extend the time of defendants Manton, Sweeney and Reich to respond to the complaint until May 31, 2005. Please advise me of your position regarding this matter. I can be reached at 646-239-2635.

FILED

IN CLERKS OFFICE
U.S. DISTRICT COURT ED. N.Y.

★ MAR 31 2005 ★
P.M. _____
TIME A.M. _____

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

MEMBLATT,

Plaintiff,

-against-

RIOS, ET AL.,

Defendants.

DEARIE, District Judge.

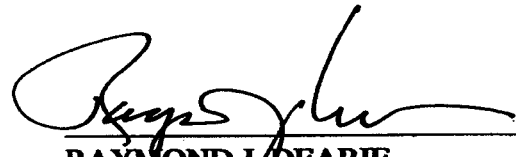
ORDER

05 CV 1021 (RJD) (LB)

The Court is in receipt of both defendant Koslowitz's request for a ninety day extension of time to respond to plaintiff's complaint and plaintiff's opposition. The Court hereby grants a sixty day extension for defendant to respond; defendant shall respond by May 31, 2005.

SO ORDERED.

Dated: Brooklyn, New York
March 31, 2005


RAYMOND J. DEARIE
United States District Judge

(9)

Last Transaction

<u>Date</u>	<u>Time</u>	<u>Type</u>	<u>Identification</u>	<u>Duration</u>	<u>Pages</u>	<u>Result</u>
Apr 2	4:28pm	Fax Sent	17182639465	0:48	2	OK

RENFROE & QUINN
ATTORNEYS AT LAW
118-35 QUEENS BOULEVARD
14TH FLOOR
FOREST HILLS, N.Y. 11375

CHRISTOPHER RENFROE
JOHN E. QUINN

TEL: (718) 575-8552
TEL: (718) 575-8553
TEL: (718) 263-2984
FAX: (718) 263-9465

April 4, 2005

Judith B. Memblatt, Esq.
98-51 65th Avenue, #2A
Rego Park, NY 11374

Re: Memblatt v. Rios, et al.

Dear Ms. Memblatt,

This will confirm that the Defendants Thomas J. Manton, Gerard J. Sweeney and Michael H. Reich shall have the same extension of time to respond to your complaint as was granted by the Court to co-defendant Koslowitz.

Therefore, in keeping with the Court's Order of March 31, 2005, a copy of which is attached, these defendants will respond by May 31, 2005.

Kindly sign and return the enclosed stipulation for our file. A copy is included for yours.

If there is any question do not hesitate to call.

Sincerely,

John E. Quinn

JEQ:cr
Encl.

Judith B. Memblatt, Esq.

98-51 65th Avenue #2A

Rego Park, NY 11374

646-239-2635

April 6, 2005

John E. Quinn, Esq.

Renfroe & Quinn

Attorneys at Law

118-35 Queens Boulevard

14th Floor

Forest Hills, New York 11375

Re: Memblatt v. Rios, et al.

Case No.: 05 CV 1021 (RJD) (LB)

Dear Mr. Quinn:

Pursuant to our telephone conversation of April 4, 2005, in which you accepted my offer to extend the time of defendants Manton, Sweeney and Reich to respond to the complaint until May 31, 2005, in light of Judge Dearie's recent ruling regarding defendant Koslowitz's application, I have executed the stipulation that you have forwarded to me and am herewith returning same.

Please forward a copy of the fully executed stipulation to me, after you have signed it.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Judith B. Memblatt". The signature is fluid and cursive, with the first name "Judith" and last name "Memblatt" being clearly legible.

Judith B. Memblatt, Esq.

Enc.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

MEMBLATT,

Plaintiff,

-against

05 CV 1021(RJD) (LB)

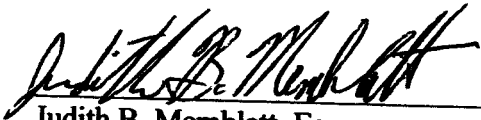
RIOS, ET AL.

Defendants

**STIPULATION
EXTENDING THE TIME
TO RESPOND TO
THE COMPLAINT**

IT IS HEREBY STIPULATED AGREED AND CONSENTED TO BY AND
BETWEEN THE UNDERSIGNED AS FOLLOWS:

The time for Defendants Thomas J. Manton, Gerard J. Sweeney and Michael H. Reich to
respond to the complaint herein shall be extended to May 31, 2005.



Judith B. Memblatt, Esq.
Plaintiff *Pro Se*
98-51 65th Avenue #2A
Rego Park, NY 11201
646-239-2635

Renfroe & Quinn
Attorneys for Defendants
Thomas J. Manton, Gerard J. Sweeney
and Michael H. Reich
118-35 Queens Blvd., 14th Floor
Forest Hills, NY 11375
718-575-8552